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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

VERONICA G.,

Petitioner,

v.

THE SUPERIOR COURT OF LOS
ANGELES COUNTY,

Respondent;

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Real Party in Interest.

No. B211206

(Los Angeles County
Super. Ct. No. CK69306)

ORIGINAL PROCEEDING; petition for extraordinary writ. Terry T. Truong,
Juvenile Court Referee. Petition denied.

Veronica G., in pro per, Petitioner.

No appearance for Respondent.

Raymond G. Fortner, Jr., County Counsel, James M. Owens, Assistant County
Counsel, and Aileen Wong, Senior Deputy County Counsel, for Real Party in Interest.

Children's Law Center of Los Angeles and Abby Kara Eskin for the Minors.

Veronica G. (Mother), appearing in propria persona, seeks an extraordinary writ to vacate the juvenile court's order terminating reunification services and setting a permanency planning hearing pursuant to Welfare and Institutions Code section 366.26.¹ Finding no merit to Mother's challenge, we deny her petition.

BACKGROUND

Veronica G. is the mother of M.O., and R.R. M.O. (born August 2004) and R.R. (born April 2007) have different fathers, both of whom are incarcerated.

In July 2007, after Mother was arrested for possession of methamphetamines, the juvenile court detained M.O. and R.R. (collectively "the minors") based on allegations by the Los Angeles County Department of Children and Family Services (DCFS) that Mother had an ongoing substance abuse problem with methamphetamines and had placed the minors in the care of their grandparents and other relatives without making appropriate plans for their care. In November 2007, the juvenile court exercised jurisdiction over the minors, permitted Mother to have regular monitored visits, and ordered reunification services, which included random drug testing, participation in individual counseling, and the completion of parenting and substance abuse programs.

The six-month status reports for M.O. and R.R. reported the following: (a) Mother told the social worker that she had completed the parenting course, but failed to provide a copy of the completion certificate despite repeated requests by DCFS; (b) Mother failed to appear for nine out of thirteen drug screenings; she tested negative for the two tests she did take; (c) Mother had enrolled in the drug counseling program at a community health center, but was discharged from the program after poor attendance; mother entered another drug treatment program in September 2008; (d) Mother had visited M.O. twice over the course of four months and her visits with R.R. were "sporadic;" (e) M.O. cried

¹ All further statutory references are to the Welfare and Institutions Code. All rule references are to the California Rules of Court.

and threw tantrums after visits with Mother, but was happy living with his maternal aunt and uncle, who expressed a desire to adopt him; and (f) R.R. appeared to be “happy” and “thriv[ing]” with his maternal grandparents, who also expressed a desire to adopt him. The reports recommended terminating reunification services and permanently placing M.O. and R.R. with their respective caregivers.

At the six-month review hearings for M.O. and R.R., which took place in September 2007, the juvenile court found “by clear and convincing evidence” that Mother had made “minimal progress,” and had not consistently and regularly visited the minors, had not made significant progress in resolving the problems that led to their removal, and had not demonstrated the capacity and ability to complete the objectives of the treatment plan or to provide for their needs. Because “there [was] not a substantial probability” that M.O. or R.R. would be returned to Mother within six months of the hearings, the juvenile court terminated reunification services and scheduled a section 366.26 permanency planning hearing for both children on January 16, 2009.

Mother, in propia persona, petitioned this court for extraordinary writ relief in October 2008. She appended several written letters but no memorandum of points and authorities. DCFS opposes the writ petition. Procedurally, DCFS argues that Mother has failed to provide an adequate basis for writ relief. Substantively, DCFS defends the order, arguing that substantial evidence supports it.

DISCUSSION

I. Legal framework

To provide the proper framework for assessing Mother’s challenge to the order, we begin by setting forth the general legal principles that guide our review.

“If the child is removed from the parents’ custody, the court must make orders regarding reunification services. (§ 361.5.)” (*Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 248.) “Until permanency planning, reunification of parent and child is the law’s paramount concern.” (*Judith P. v. Superior Court* (2002) 102 Cal.App.4th 535,

546.) Generally speaking, parents of dependent children are entitled to reunification services “aimed at assisting the parent in overcoming the problems that led to the child’s removal.” (*Id.* at p. 546.) “The reunification phase of dependency proceedings is a critical aspect of the entire dependency system. If the parent fails to reunify with the minor, then the juvenile court must conduct a selection and implementation hearing, which may result in the permanent severance of the parent-child relationship.” (*Ingrid E. v. Superior Court* (1999) 75 Cal.App.4th 751, 755.)

“Sections 366.21 and 366.22 require that if a child may not safely be returned to the child’s parents within a maximum of 18 months from removal from the parents’ care, the trial court must terminate reunification efforts and set a section 366.26 hearing.” (*In re Julia U.* (1998) 64 Cal.App.4th 532, 543.) However, “[r]eunification services are voluntary, and cannot be forced on an unwilling or indifferent parent.” (*In re Jonathan R.* (1989) 211 Cal.App.3d 1214, 1220.) “The goal of family reunification is not served when a parent has shown no interest in reunifying. Because reunification services are a benefit, not a constitutional entitlement, the juvenile court has discretion to terminate those services at any time, depending on the circumstances presented.” (*In re Jesse W.* (2007) 157 Cal.App.4th 49, 60.)

A petition for extraordinary writ may be brought in the Court of Appeal to challenge a juvenile court’s decision to terminate reunification services and to set a permanency planning hearing pursuant to section 366.26. (See rules 8.450, 8.452, 5.600; see generally, *Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570, 577-578 [discussing former rule 39.1B].) Whether appellate review is sought in a writ proceeding or in an appeal, we apply the general rule that the trial court’s judgment or order is presumed correct and error must be affirmatively shown. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) We review an order following a review hearing for substantial evidence. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1020.)

“In juvenile cases, as in other areas of the law, the power of an appellate court asked to assess the sufficiency of the evidence begins and ends with a determination as to whether or not there is any substantial evidence, whether or not contradicted, which will

support the conclusion of the trier of fact. All conflicts must be resolved in favor of the respondent and all legitimate inferences indulged in to uphold the verdict, if possible. Where there is more than one inference which can reasonably be deduced from the facts, the appellate court is without power to substitute its deductions for those of the trier of fact.” (*In re Katrina C.* (1988) 201 Cal.App.3d 540, 547.)

II. Analysis

A party seeking extraordinary writ relief is obliged to submit a petition that “substantively addresses the specific issues to be challenged and is supported by an adequate record.” (*Glen C. v. Superior Court, supra*, 78 Cal.App.4th at p. 582.) As DCFS argues, Mother’s petition falls short of that requirement. It lacks the requisite memorandum arguing and supporting her specific claims of error. (*Id.* at p. 577; Cal. Rules of Court, rule 8.452(a)(3), (b)(2).) Despite its deficiencies, however, we shall entertain Mother’s petition on the merits. “The interest at stake in [such] petitions is of extreme importance, as the termination of reunification services in most instances ensures the subsequent termination of parental rights at the section 366.26 hearing.” (*Glen C. v. Superior Court, supra*, 78 Cal.App.4th at p. 580.)

In her writ petition (which is a two page written letter), Mother states that she has completed a parenting course, is currently enrolled in a residential drug treatment program, and is attending twelve-step meetings. Mother further states that: “I continue to work on a daily basis toward continuing sobriety, changing my life, my way of thinking and myself toward the better.” She urges this court to extend her reunification services so that she can show M.O. and R.R. that she loves and cares for them.” Mother attaches a copy of a certificate purporting to show completion of a ten class parenting course, a written letter (not on letterhead) purportedly from the Mini House Twelve Step Program confirming that she has enrolled in its drug treatment program, and several letters from other participants in the treatment program attesting to Mother’s commitment to sobriety. Mother’s letter, the completion certificate, and the letters from the drug treatment program were not before the juvenile court.

“Compliance with the reunification plan, though not determinative, is a pertinent consideration at a section 366.22 hearing.” (*Jennifer A. v. Superior Court* (2004) 117 Cal.App.4th 1322, 1341.) “The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental.” (§ 366.22, subd. (a).) Beyond compliance with the case plan, “the court must also consider progress the parent has made towards eliminating the conditions leading to the children’s placement out of home.” (*In re Dustin R.* (1997) 54 Cal.App.4th 1131, 1141-1142.) “The court must also consider the parents’ progress and their capacity to meet the objectives of the plan; otherwise the reasons for removing the children out-of-home will not have been ameliorated.” (*Id.* at p. 1143.)

Here, there was substantial evidence to support the juvenile court’s finding that Mother had not complied with the case plan. Although the court-ordered case plan required regular monitored visits by Mother, she visited M.O. twice in four months and sporadically visited R.R. Likewise, although the case plan required Mother to complete a parenting course, complete a drug treatment program, and obtain individual counseling, at the time of the review hearing Mother failed to provide any evidence that she had complied with any of these requirements.

There was also substantial evidence to support the juvenile court’s finding that Mother had made “minimal” progress in eliminating the conditions that led to the original detention. The minors’ removal was prompted by Mother’s substance abuse. In addressing Mother’s substance abuse problem, the court ordered several types of services, including drug testing. Mother, however, took two tests and refused eleven. “Drug testing is an important component of the reunification plan, and we must consider the missed tests to be positive tests.” (*Jennifer A. v. Superior Court, supra*, 117 Cal.App.4th at p. 1343.) Even though Mother claims she is currently enrolled in an inpatient drug program, and various people attest to her commitment to sobriety, this evidence is insufficient to overcome the juvenile court’s finding that Mother failed to address the primary problem that led to the children’s removal, her substance abuse.

A final consideration is the child’s well-being. “The fact [that a parent has] satisfied the requirements of the reunification plan does not mean she was entitled to custody of the minor regardless of the substantial risk of detriment that reunification would have on the minor's emotional well-being.” (*In re Joseph B.* (1996) 42 Cal.App.4th 890, 901.) “Hence, the question whether to return a child to parental custody is not governed solely by whether the parent has corrected the problem that required court intervention; rather, the court must consider the effect such return would have on the child.” (*Ibid.*) Here, DCFS reported that M.O. cried for an hour and displayed “behavioral problems” after Mother’s two visits, and that he is “happy” and “comfortable” living with his aunt and uncle. DCFS also reported that R.R. refused to play with Mother during her sporadic visits, and that he appeared “happy,” “thriv[ing],” and “in good health” under the care of his grandparents. For both M.O. and R.R., DCFS concluded that there would be a very high risk of abuse if they were returned to Mother’s care. This constitutes persuasive evidence of a substantial risk of harm to the minors if returned to Mother’s care.

In sum, Mother has presented no basis of overturning the challenged order.

DISPOSITION

The petition for extraordinary writ is denied.

NOT TO BE PUBLISHED.

BAUER, J.^{*}

We concur:

MALLANO, P. J.

ROTHSCHILD, J.

^{*} Judge of the Orange County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.